

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

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|-------------------|---|--------------------------|
| LLOYD BROWN, JR., |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | CAUSE NO. 3:05-CV-443 AS |
| |) | |
| OATESS ARCHEY, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM AND ORDER

Petitioner Lloyd Brown submitted a petition for writ of *habeas corpus* pursuant to 28 U.S.C. § 2254. However, the petition must be dismissed because Mr. Brown has not exhausted his state court remedies. In his petition, Mr. Brown indicates that he filed a state court motion to appeal, and that he did not appeal the denial of that motion. 28 U.S.C. 2254(b)(1)(A) forbids a federal court from excusing the exhaustion requirement unless the state's corrective process is incapable of protecting the rights of the applicant.

For all of the reasons stated this petition is **DISMISSED** without prejudice for failure to exhaust state court remedies. Mr. Brown's motion for leave to proceed in forma pauperis is **DENIED**.

SO ORDERED.
ENTERED: **July 29, 2005**

S/ ALLEN SHARP
ALLEN SHARP, JUDGE
UNITED STATES DISTRICT COURT